

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF DETROIT,
Respondent-Public Employer in Case No. C06 H-200,

-and-

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 517M,
Respondent-Labor Organization in Case No. CU06 H-034,

-and-

TEAMSTERS LOCAL 214,
Respondent-Labor Organization in Case No. CU06 H-035,

-and-

RICHARD B. KING,
An Individual Charging Party.

APPEARANCES:

Rudell & O'Neill, P.C., by Wayne Rudell, Esq., for Respondent Teamsters Local 214

Richard B. King *In Propria Persona*

DECISION AND ORDER

On March 29, 2007, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order in the above matter finding that Respondents have not engaged in and were not engaging in certain unfair labor practices, and recommending that the Commission dismiss the charges and complaint as being without merit.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Christine A. Dardarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

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RICHARD B. KING,
An Individual Charging Party.

APPEARANCES:

Rudell & O'Neill, P.C., Esq., for Respondent Teamsters Local 214

Richard B. King *in pro per*

**DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE
ON SUMMARY DISPOSITION**

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.10 and 423.216, this case was assigned for hearing before David M. Peltz, Administrative Law Judge for the Michigan Employment Relations Commission. This matter comes before the Commission on unfair labor practice charges filed by Richard B. King on August 28, 2006 against the City of Detroit, Service Employees International Union (SEIU), Local 517M and Teamsters Local 214.

In Case No. C06 H-200, Charging Party alleges that the City of Detroit violated Sections 10 and 16 of PERA by failing to follow "proper reduction in work force procedures" and by not responding to his May 17, 2006, request to view his personnel file. King further contends that the City acting "unfairly" by placing him in a job title that was not equivalent to his seniority.

The unfair labor practice charge against Respondent SEIU Local 571M, Case No. CU06 H-034, provides:

During grievance process, Yolanda Langston -- Chief Steward did not file appeal papers in a timely manner, which caused grievance to demise. [There have] been problems concerns [sic] between Teamsters & SEIU of representation on my behalf. SEIU continued to take union dues out of my check up until June 30, 2006, even after I filled out a Deduction/Revocation form in Sept. of 2005 to have union dues discontinued.

In Case No. CU06 H-034, King asserts the following with respect to Respondent Teamsters Local 214:

I gave Floyd Ware – Chief Steward of Teamsters – a written grievance on June 5, 2006 and to my knowledge, he has not acted upon the grievance. Derrick Reeves – Steward for Teamsters – gave me Deduction/Revocation cards on October 19, 2005 to start having Teamsters take union dues out of my paycheck. I return[ed] [the] cards to Derrick Reeves on Nov. 2, 2005. Teamsters are claiming they never received the union cards, but the job title that [I] possess as of Sept. 12, 2005 is a Teamster title.

The unfair labor practice charges in this matter were consolidated and an evidentiary hearing was scheduled for March 29, 2007. On January 9, 2007, Respondent Teamsters Local 214 filed a motion for summary disposition or, in the alternative, for more definite statement. In its motion, the Teamsters asserted that the charge filed against it fails to state a claim cognizable under PERA.

Upon reviewing the charges, I concluded that King had failed to meet the minimum pleading requirements set forth in Rule 151(2)(c), R423.151, of the General Rules and Regulations of the Employment Relations Commission. Accordingly, on January 18, 2007, I issued an order pursuant to Rule 162 of the Commission's General Rules directing Charging Party to file a more definite statement of the allegations set forth in each of his charges. Specifically, King was directed to set forth the following facts: (1) identification and explanation of the specific grievances referenced in the charges; (2) the positions within the bargaining unit(s) held by Charging Party during the time period in question; and (3) the specific contract provision(s) allegedly breached by the Employer. Charging Party was given until February 1, 2007, to file his more definite statement. However, he did not file a response to the order for more definite statement on or after that date. On March 12, 2007, the Teamsters renewed its motion seeking to have the charges dismissed.

The failure of Charging Party to respond to the order for more definite statement, in and of itself, warrants dismissal of the charges. In any event, I conclude that the charges, as written, fail to raise any issue cognizable under PERA. With respect to public employers, PERA does not prohibit all types of discrimination or unfair treatment, nor does the Act provide an independent cause of action for an employer's breach of contract. Absent an allegation that the Employer interfered with, restrained, coerced or retaliated against the Charging Party for engaging in conduct protected by Section 9 of PERA, the Commission is foreclosed from making a judgment on the merits or fairness of the Employer's action. See e.g. *City of Detroit (Fire Dep't)*, 1988 MERC Lab Op 561, 563-564;

Detroit Bd of Ed, 1987 MERC Lab Op 523, 524. In the instant case, Charging Party has not made any assertion that the City restrained, coerced or retaliated against him for engaging in protected concerted activities.

Similarly, the charges against the Respondent labor organizations also fail to state a claim under PERA. A union's duty of fair representation is comprised of three distinct responsibilities: (1) to serve the interests of all members without hostility or discrimination toward any; (2) to exercise its discretion in complete good faith and honesty, and (3) to avoid arbitrary conduct. *Vaca v Sipes*, 386 US 171, 177 (1967); *Goolsby v Detroit*; 419 Mich 651 (1984). Within these boundaries, a union has considerable discretion to decide how or whether to proceed with a grievance, and must be permitted to assess each grievance with a view to its individual merit. *Lowe v Hotel Employees*, 389 Mich 123, 146 (1973); *Int'l Alliance of Theatrical Stage Employees, Local 274*, 2001 MERC Lab Op 1. In the instant case, King has not alleged that either union acted arbitrarily, discriminatorily or in bad faith, nor do the charges, as written, adequately explain how the actions of the Respondent labor organizations constitute a violation of PERA. I, therefore, recommend that the Commission issue the following order.

RECOMMENDED ORDER

The unfair labor practice charges in Case Nos. C06 H-200, CU06 H-034 & CU06 H-035 are hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

David M. Peltz
Administrative Law Judge

Dated: _____